

SECOND REGULAR SESSION

HOUSE BILL NO. 1476

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LEARA (Sponsor) AND ZERR (Co-sponsor).

5253L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto three new sections relating to the sole purpose of freight forwarding.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto three new sections, to be known as sections 135.1500, 135.1501, and 135.1502, to read as follows:

135.1500. 1. Sections 135.1500 to 135.1502, shall be known and may be cited as the "Freight Forwarders Incentive Act".

2. As used in sections 135.1500 to 135.1502, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Air export tax credit", the tax credit against the taxes imposed under chapters 143, 147, and 148, except for sections 143.191 to 143.265, to be issued by the department to a claiming freight forwarder for the shipment of air cargo on a qualifying outbound flight;

(2) "Airport", any airport that is owned and operated by any city not within a county;

(3) "Certificate of compliance", a certificate submitted with any application for a tax credit under sections 135.1500 to 135.1502, that shall certify that all requisite requirements for the issuance of such tax credits and tax incentives have been satisfied for such eligible facility and shall provide evidence of such satisfaction;

(4) "Chargeable kilo", the shipment of a kilo of freight, as measured by the greater of:

(a) Actual weight; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18 (b) A dimensional weight, as determined by the conversion factors promulgated by
19 the International Air Transport Association, on a qualifying outbound flight;
- 20 (5) "Claiming freight forwarder", the freight forwarder designated as the "agent"
21 on the airway bill for the qualifying outbound flight for which such air export tax credit
22 is sought;
- 23 (6) "Department", the Missouri department of economic development;
- 24 (7) "Direct all cargo aircraft flight", a flight that flies directly to its destination
25 without stopping, except to receive fuel and maintenance;
- 26 (8) "Economic incentive laws", any provision of Missouri law under which
27 economic incentives are provided to redevelopers of a parcel or parcels to redevelop the
28 land, such as tax abatement or payments in lieu of taxes, or redevelopment plans or
29 redevelopment projects approved or adopted which include the use of economic incentives
30 to redevelop the land;
- 31 (9) "Fiscal year", the twelve consecutive month time period beginning on the date,
32 which is twelve months after the date on which the certificate of occupancy is issued for an
33 eligible facility, and ending on the last day of the twelfth month thereafter, with each
34 subsequent fiscal year beginning on the anniversary of the date, which is twelve months
35 after the date of the issuance of such certificate of occupancy, and ending on the last day
36 of the twelfth month thereafter;
- 37 (10) "Freight forwarder", a person that assumes responsibility in the ordinary
38 course of its business for the transportation of cargo from the place of receipt to the place
39 of destination, including the utilization of a qualifying outbound flight;
- 40 (11) "Full-time employee", an employee who is located at an eligible facility and is
41 scheduled to work an average of at least thirty-five hours per week for a twelve-month
42 period;
- 43 (12) "Multimodal commerce", modes of commerce for the shipment of materials,
44 components, goods, or products, including road transportation, railroad transportation,
45 water transportation, or aircraft transportation;
- 46 (13) "Municipality", any city, town, village, or county;
- 47 (14) "New job", a person who was not employed at the eligible facility as a full-time
48 employee on or prior to the date of the issuance of the certificate of occupancy for the
49 eligible facility. No job that was created prior to the date of the issuance of the certificate
50 of occupancy for the eligible facility shall be deemed a new job. An employee that spends
51 less than fifty percent of the employee's work time at the eligible facility is still considered
52 to be located at an eligible facility if the employee receives his or her directions and control

53 from that facility, is on the facility's payroll, and one hundred percent of the employee's
54 income from such employment is Missouri income;

55 (15) "Outbound cargo activity", the shipment of materials, components, goods, and
56 products from an eligible facility to another destination through any mode of multimodal
57 commerce. The term "outbound cargo activity" shall not include road transportation to
58 the airport from the eligible facility;

59 (16) "Perishable freight", agricultural products, including seeds, garden products,
60 live animals, and processed meat products such as pork and beef;

61 (17) "Qualifying cargo activity", meeting or exceeding the requirements for level
62 one air cargo activity or level two air cargo activity;

63 (18) "Qualifying outbound flight", a direct all cargo aircraft flight from the airport
64 to an international destination.

135.1501. 1. For all taxable years beginning on or after January 1, 2012, a claiming
2 freight forwarder shall be entitled to an air export tax credit for the shipment of cargo on
3 a qualifying outbound flight in an amount equal to thirty cents per chargeable kilo.

4 2. For all taxable years beginning on or after January 1, 2012, a claiming freight
5 forwarder shall be entitled to an air export tax credit for the shipment of perishable freight
6 on a qualifying outbound flight in an amount equal to thirty-five cents per chargeable kilo.

7 3. No claiming freight forwarder shall receive air export tax credits under both
8 subsections 1 and 2 of this section for a single shipment on a qualifying outbound flight.

9 4. The department shall index the amount of the air export tax credits to adjust
10 each year depending upon fluctuations in the cost of fuel for over-the-road transportation.

11 5. To receive benefits provided under this section, a claiming freight forwarder
12 shall file an application with the department within one hundred twenty calendar days of
13 the date that the shipment for which air export tax credits are being sought was
14 transported on the qualifying outbound flight. The documentation to be presented by the
15 claiming freight forwarder in such an application shall consist of the master airway bill for
16 the shipment on the qualifying outbound flight for which the claiming freight forwarder
17 is seeking air export tax credits. All master airway bills shall specify an origin located
18 within the United States of America for the shipments to qualify for air export tax credits.
19 The department shall establish procedures to allow claiming freight forwarders that file
20 applications for air export tax credits to receive such tax credits within ten business days
21 of the date of the filing of the application for air export tax credits relating to the qualifying
22 outbound flight. No application shall be approved for any continuing direct all cargo
23 aircraft flights from the airport to an international destination conducted by a carrier,
24 which conducted such flights on a scheduled basis prior to May 1, 2012, and which

25 continuing flights after May 1, 2012, would otherwise have constituted qualifying outbound
26 flights.

27 6. If the annual cap on the issuance of air export tax credits provided under section
28 135.1502, is met in a given year, then the amount of such tax credits which have been
29 authorized, but remain unissued, shall be carried forward and issued in the subsequent
30 year.

31 7. No tax credits provided under this section shall be authorized after August 28,
32 2020. Any tax credits authorized on or before August 28, 2020, but not issued prior to such
33 date may be issued until all such authorized tax credits have been issued.

135.1502. 1. The total aggregate amount for air export tax credits authorized under
2 section 135.1501 shall not exceed sixty million dollars. The amount of the air export tax
3 credits issued under section 135.1501 shall not exceed:

4 (1) Three million six hundred thousand dollars for the taxable year beginning on
5 or after January 1, 2012, but ending on or before December 31, 2012;

6 (2) Four million eight hundred thousand dollars for the taxable year beginning on
7 or after January 1, 2013, but ending on or before December 31, 2013; and

8 (3) The greater of one million two hundred thousand dollars per weekly qualifying
9 outbound flight or three million six hundred thousand dollars for all taxable years
10 beginning on or after January 1, 2014.

11
12 The department shall annually determine the number of weekly qualifying outbound
13 flights, which shall be the average number of such flights per week during the month of
14 September of the previous year.

15 2. If the amount of any tax credit authorized under sections 135.1500 to 135.1502
16 exceeds the total tax liability for the year in which the applicant is entitled to receive a tax
17 credit, the amount that exceeds the state tax liability may be carried forward for credit
18 against the taxes imposed under chapters 143, 147, and 148, except sections 143.191 to
19 143.265, for the succeeding six years, or until the full credit is used, whichever occurs first.
20 Tax credits authorized under the provisions of sections 135.1500 to 135.1502 may be
21 transferred, sold, or otherwise assigned. Tax credits granted to a partnership, a limited
22 liability company taxed as a partnership, or multiple owners of property shall be passed
23 through to the partners, members, or owners respectively pro rata or under an executed
24 agreement among the partners, members, or owners documenting an alternate distribution
25 method.

26 3. The department may promulgate rules to implement the provisions of sections
27 135.1500 to 135.1502. Any rule or portion of a rule, as that term is defined in section

28 **536.010 that is created under the authority delegated in this section shall become effective**
29 **only if it complies with and is subject to all of the provisions of chapter 536, and, if**
30 **applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
31 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
32 **the effective date, or to disapprove and to annul a rule are subsequently held**
33 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
34 **after August 28, 2012, shall be invalid and void.**

35 **4. The provisions of the new programs authorized under sections 135.1500 to**
36 **135.1502 shall automatically sunset on December thirty-first sixteen years after the**
37 **effective date of this act, unless reauthorized by an act of the general assembly. If such**
38 **program is reauthorized, the program authorized under this section shall automatically**
39 **sunset six years after the effective date of the reauthorization of this section. This section**
40 **shall terminate on September first of the calendar year immediately following the calendar**
41 **year in which the programs authorized under sections 135.1500 to 135.1502 sunset.**

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